

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA :
 :
 :
Plaintiff :
v. : NO. 3:17-cr-00085
 : DRD-MEL-1
 :
 :
ANTHONY VAZQUEZ-ARROYO :
 :
 :
Defendant :

CHANGE OF PLEA

Was held Before HONORABLE JUDGE MARCOS E. LOPEZ U.S. MAGISTRATE
JUDGE sitting in San Juan, Puerto Rico, on April 3, 2017 at 9:57
A.M.

1 APPEARANCES:

2

3 FOR THE PLAINTIFF:

4 DAVID HENEK, AUSA

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6 FOR THE DEFENDANT:

7 JOSE AGUAYO, ESQ.

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1 THE CLERK: Pertaining to the hearing, Criminal
2 case 17-85 United States of America versus Anthony Vazquez-
3 Arroyo. Appearing on behalf of the U.S. Attorney David
4 Henek and appearing on behalf of the defendant Attorney Jose
5 Aguayo. The defendant is present in Court and is being
6 assisted by the services of the Court interpreter.

7 MR. HENEK: David Henek on behalf of the
8 Government. Your Honor, the Government is ready to proceed.

9 MR. AGUAYO: Jose Aguayo on behalf of Anthony
10 Vazquez, and we are also ready to proceed, Your Honor.

11 (The defendant was duly sworn.)

12 THE MAGISTRATE: I am addressing the defendant.
13 Sir, could you please state your full name for the record.

14 THE DEFENDANT: Anthony Vazquez-Arroyo.

15 THE MAGISTRATE: Mr. Vazquez, if at any point
16 during this hearing you do not understand a question that I
17 ask you, or an explanation that I give you, let me know and
18 I will rephrase my question or my explanation, so that you
19 can understand it. Is that clear?

20 THE DEFENDANT: Yes.

21 THE MAGISTRATE: You are under oath. If you do not
22 answer the truth as to each and every one of the questions
23 that I will be asking you, you could be subjecting yourself
24 to a potential perjury charge, which could result in a term
25 of imprisonment in addition to whatever sentence of

1 incarceration is imposed in this case, if any. Do you
2 understand that?

3 THE DEFENDANT: Yes.

4 THE MAGISTRATE: What is your age?

5 THE DEFENDANT: Twenty nine.

6 THE MAGISTRATE: What is the extent of your
7 education?

8 THE DEFENDANT: Fifth grade.

9 THE MAGISTRATE: Within the past two days, have you
10 taken any drugs, medications or alcoholic beverages?

11 THE DEFENDANT: No..

12 THE MAGISTRATE: Have you recently been under the
13 care of a mental health professional, like a psychologist or
14 a psychiatrist?

15 THE DEFENDANT: No.

16 THE MAGISTRATE: Counsel Aguayo, do you harbor any
17 doubts as to defendant's competency?

18 MR. AGUAYO: I do not, Your Honor.

19 THE MAGISTRATE: I find defendant is competent for
20 purposes of this hearing. He appears to be alert and to be
21 understanding the Court's questions. Now, Mr. Vazquez, are
22 you aware of the charges that appear in the indictment
23 pending against you? One of them is a charge of felony
24 possession of a firearm and the other one is a charge of
25 illegal possession of a machine gun. Are you familiarized

1 with these charges that are in the indictment pending
2 against you?

3 THE DEFENDANT: Yes, sir.

4 THE MAGISTRATE: Have you discussed them with your
5 lawyer and understood your attorney's explanations as to all
6 those charges?

7 THE DEFENDANT: Yes, sir.

8 THE MAGISTRATE: Could you tell me in your own
9 words, what do you think is the purpose of today's hearing?
10 I don't need you to use any technical legal terms, just in
11 your own words. What do you think this hearing is for?

12 THE DEFENDANT: I am here to plead guilty.

13 THE MAGISTRATE: Have you had the opportunity to
14 discuss with Counsel Aguayo, the decision of whether you
15 should enter a guilty plea in this case?

16 THE DEFENDANT: Yes, I was talking with him about
17 it.

18 THE MAGISTRATE: And have you had a reasonable
19 opportunity to discuss with Counsel Aguayo what are the
20 consequences of pleading guilty as compared to the
21 consequences of exercising your right to a jury trial?

22 THE DEFENDANT: Yes, sir.

23 THE MAGISTRATE: Have you discussed with your
24 lawyer your Constitutional Rights?

25 THE DEFENDANT: Yes.

1 THE MAGISTRATE: Are you fully satisfied with the
2 legal services that Counsel Jose Aguayo has provided to you
3 in this case?

4 THE DEFENDANT: Yes.

5 THE MAGISTRATE: Counsel Aguayo, do you believe the
6 defendant has a good understanding of his Constitutional
7 Rights and of the consequences of pleading guilty?

8 MR. AGUAYO: I do, Your Honor.

9 THE MAGISTRATE: I find the defendant is fully
10 aware of the nature of the charges and that he also
11 understands the purpose of today's hearing.

12 Now, Mr. Vazquez, before we proceed any further, we
13 need to address the matter of whether you consent to proceed
14 before a Magistrate Judge for purpose of this hearing.
15 Please listen to the explanations that I am going to give
16 you.

17 There are different kind of Judicial Officers in this
18 Court, among them there is District Judges and there are
19 Magistrate Judges. Judge Daniel Dominguez is a United States
20 District Judge for the District of Puerto Rico and he is the
21 judicial officer presiding over this case.

22 District Judges like Judge Dominguez are appointed by
23 the President of the United States for a term of life, and
24 they may preside without limitations over all civil and
25 criminal matters brought before this Court.

1 You have the right to have a trial by jury presided by
2 a District Judge and you also have the right to have this
3 hearing that we are conducting right now presided by a
4 District Judge as well. Have you understood the
5 explanations that I've given you so far?

6 THE DEFENDANT: Yes.

7 THE MAGISTRATE: Now, Magistrate Judges like me on
8 the other hand are appointed for a term of eight years. We
9 may preside in civil cases including jury trials upon
10 receiving the parties' consent. In criminal cases like this
11 one, we may preside over some dispositive matters, upon the
12 District Judge referral and the defendant's consent.

13 A change of plea hearing, like the one that we are
14 conducting right now is considered to be a dispositive
15 matter, inasmuch as during this hearing the defendant, in
16 this case you, would be waiving several constitutional
17 rights, including that of a jury trial. Thus, disposing of
18 the case simply by your own admission of guilt.

19 Magistrate Judges are expected to conduct all
20 proceedings as it would be conducted by a District Judge,
21 but upon conclusion of the hearing, I will be issuing a
22 report with a suggested course of action being recommended
23 to the District Judge.

24 Any recommendation so issued is subject to review by
25 the District Judge. Have you understood the explanations

1 that I have given you?

2 THE DEFENDANT: Yes, sir.

3 THE MAGISTRATE: Do you voluntarily consent to
4 plead guilty before a Magistrate Judge?

5 THE DEFENDANT: Yes, sir.

6 THE MAGISTRATE: I am showing you a form that is
7 titled Waiver of Right to Trial by Jury. Did your lawyer
8 explain to you what this form means?

9 THE DEFENDANT: Yes.

10 THE MAGISTRATE: Right above of where it says
11 signature of defendant, Mr. Vazquez, are these two
12 signatures your signatures?

13 THE DEFENDANT: Yes, sir.

14 THE MAGISTRATE: Counsel Aguayo, on this waiver
15 form right above the signature of defendant's attorney, are
16 these your signatures?

17 MR. AGUAYO: That is correct, Your Honor.

18 THE MAGISTRATE: And AUSA Henek, I understand that
19 it appears that there is a colleague of yours who signed
20 first, but I think that in black ink there is a space where
21 you signed right next to where it says consented to by the
22 United States, is that your signature?

23 MR. HENEK: That is correct, Your Honor.

24 THE MAGISTRATE: I have signed this form with
25 today's date. This form shall be made part of the record.

1 I find that the defendant having been duly advised of his
2 right to proceed before a District Judge has voluntarily
3 consented under advice of Counsel to proceed before a
4 Magistrate Judge for purposes of this hearing.

5 Now, Mr. Vazquez, do you understand that you have the
6 right to remain silent and that you may choose to testify at
7 the trial held against you, if you want to, but if you do
8 not wish to testify, you are entitled to remain silent
9 throughout the entirety of the trial. Do you understand
10 that?

11 THE DEFENDANT: Yes.

12 THE MAGISTRATE: Do you understand that you can not
13 be penalized in any way whatsoever simply because of the
14 fact that you choose to remain silent at trial?

15 THE DEFENDANT: Yes.

16 THE MAGISTRATE: Do you understand that you are
17 presumed innocent, and that everyone including the jury has
18 to presume that you are innocent until such a time that the
19 Government is able, if the Government is ever able to prove
20 your guilt based on admissible evidence?

21 THE DEFENDANT: Yes.

22 THE MAGISTRATE: Do you understand that you have
23 the right to face in open Court government witnesses and to
24 cross examine them at trial?

25 THE DEFENDANT: Yes.

1 THE MAGISTRATE: Do you understand that you have
2 the right to challenge the voluntariness of any statement
3 that you might have made to law enforcement, if any?

4 THE DEFENDANT: Yes.

5 THE MAGISTRATE: Do you understand that you also
6 have the right to challenge evidentiary issues related to
7 your arrest and the seizure of any incriminating evidence
8 against you?

9 THE DEFENDANT: Yes.

10 THE MAGISTRATE: Do you understand that you have
11 the right to a speedy trial before a jury within 70 days
12 that you have been arrested, pursuant to the charges in the
13 indictment pending against you in this case?

14 THE DEFENDANT: Yes.

15 THE MAGISTRATE: Do you understand that you are
16 entitled to a unanimous verdict and that the Government
17 bears the burden of convincing 12 persons that you are
18 guilty beyond reasonable doubt, otherwise if that verdict is
19 not unanimous, you would not be convicted. Do you
20 understand that?

21 THE DEFENDANT: Yes.

22 THE MAGISTRATE: Do you understand that you have
23 the right to present evidence on your behalf, and this
24 evidence may consist of documents, tangible objects or
25 statements or testimony of witnesses among other things?

1 THE DEFENDANT: Yes.

2 THE MAGISTRATE: Do you understand that you have
3 the right to use the subpoena power of the Court to compel
4 the attendance of defense witnesses and to compel the
5 production of evidence reasonably needed, and within reach
6 that you may use to present your case?

7 THE DEFENDANT: Yes.

8 THE MAGISTRATE: Do you understand that you have
9 the right to be assisted by Counsel at all stages of this
10 case including trial and sentencing?

11 THE DEFENDANT: Yes.

12 THE MAGISTRATE: Have you discussed these rights
13 with Counsel Aguayo?

14 THE DEFENDANT: Yes.

15 THE MAGISTRATE: I find the defendant is fully
16 cognizant of his Constitutional Rights which he states that
17 he has understood and that he has discussed with his legal
18 representation.

19 Now, Mr. Vazquez, do you understand that if you proceed
20 to enter a guilty plea in this case, you are going to be
21 waiving all these rights that I've just summarized to you?

22 THE DEFENDANT: Yes.

23 THE MAGISTRATE: Do you still wish to enter a
24 guilty plea?

25 THE DEFENDANT: Yes.

1 THE MAGISTRATE: Do you understand that once you
2 enter a guilty plea, you are going to be found guilty
3 without a trial and that you are not going to be presumed
4 innocent anymore as to Count 1 and 2 of the indictment?

5 THE DEFENDANT: Yes.

6 THE MAGISTRATE: Do you understand that if you
7 plead guilty and your plea is accepted, you will be waiving
8 any possible challenges to the Government's evidence?

9 THE DEFENDANT: Yes.

10 THE MAGISTRATE: Do you understand that once
11 adjudged guilty, sentence or punishment will be left to the
12 discretion of the Court?

13 THE DEFENDANT: Yes, sir.

14 THE MAGISTRATE: Do you understand that you will
15 not be allowed to withdraw your plea solely because you
16 disagree with the sentence that the Court may eventually
17 impose?

18 THE DEFENDANT: Yes, Your Honor.

19 THE MAGISTRATE: Do you understand that even if
20 the Court imposes a maximum statutory penalty, you would not
21 be able to withdraw your guilty plea for that reason alone?

22 THE DEFENDANT: Yes.

23 THE MAGISTRATE: Has anybody offered you anything
24 of value in order to induce you to plead guilty in this
25 case?

1 THE DEFENDANT: No, Your Honor.

2 THE MAGISTRATE: Has anybody promised you, assured
3 you, or guaranteed to you that you are going to receive a
4 specific, or a particular sentence in this case, if you
5 enter a guilty plea?

6 THE DEFENDANT: No, Your Honor.

7 THE MAGISTRATE: Do you understand that parole has
8 been abolished in the Federal System?

9 THE DEFENDANT: Yes, Your Honor.

10 THE MAGISTRATE: Do you understand that in addition
11 to a term of imprisonment and a fine, the Court may also
12 impose a term of supervised release as part of the sentence
13 in this case?

14 THE DEFENDANT: Yes, Your Honor.

15 THE MAGISTRATE: Supervised release means that you
16 will be under the supervision of a Probation Officer under
17 certain terms and conditions set by the Court. If you
18 violate any of those terms and conditions, that term of
19 supervised release could be revoked and as a consequence of
20 such revocation, you can end up serving a term of
21 imprisonment in addition to whatever sentence of
22 incarceration is imposed in this case. Do you understand
23 that?

24 THE DEFENDANT: Yes, Your Honor.

25 THE MAGISTRATE: Now, your attorney has advised the

1 Court that you wish to enter a straight plea; that is a plea
2 of guilty as to Counts 1 and 2 of the indictment without any
3 agreement with the Government of the United States. Is that
4 correct?

5 THE DEFENDANT: Yes, Your Honor.

6 THE MAGISTRATE: Let us proceed then to summarize
7 the Counts that you are facing. Count 1 alleges a violation
8 to Title 18 United States Code Sections 922 Subsection
9 (g) (1) and Section 2 and it alleges that approximately on
10 the first day of February of this year; that is 2017, in
11 Puerto Rico, you Anthony Vazquez-Arroyo having -- and
12 another named defendant, having been convicted of a crime
13 punishable by imprisonment for a term exceeding one year,
14 aiding and abetting each other knowingly possessed in and
15 affecting interstate commerce, one Glock pistol. Is this
16 one of the counts to which you are pleading guilty?

17 THE DEFENDANT: Yes, Your Honor.

18 THE MAGISTRATE: Let me summarize the second Count.
19 The second Count alleges a violation to Title 18 United
20 States Code Section 922 subsection (o) and Section 2. It
21 alleges that on the first day of February of the year 2017,
22 in Puerto Rico, you, Anthony Vazquez-Arroyo and another
23 named defendant, aiding and abetting each other, knowingly
24 possessed a machine gun; that is one Glock pistol model 23,
25 that had been modified to shoot automatically more than one

1 shot without manual reloading by a single function of the
2 trigger. Is this the other Count to which you are pleading
3 guilty?

4 THE DEFENDANT: Yes.

5 THE MAGISTRATE: Now, Mr. Vazquez, if you proceed
6 to enter a guilty plea to Counts 1 and 2 of the indictment,
7 you will be exposed to the following penalties as to each
8 Count. A term of imprisonment of not more than 10 years, a
9 fine not greater than \$250,000 and a term of supervised
10 release of not more than 3 years in addition to any term of
11 imprisonment. Do you understand that?

12 THE DEFENDANT: Yes, but excuse me. Could you
13 please repeat the previous question?

14 THE MAGISTRATE: Sure, I can -- I think that you
15 are meaning when I was summarizing Count 2. I can do that,
16 I will do that again. Count 2 alleges a violation to Title
17 18 United States Code Section 922 Subsection (o) and Section
18 2, and it -- I am not reading this verbatim word by word. I
19 am just simply summarizing it because you told me at the
20 beginning that you were familiarized with the charge but if
21 you need me to read it verbatim word by word, I will read it
22 word by word. Do you want me to read it verbatim word by
23 word?

24 THE DEFENDANT: No, no it's okay.

25 THE MAGISTRATE: Okay, so I will summarize it. It

1 basically alleges that on the first day of February of the
2 year 2017 in Puerto Rico, you Anthony Vazquez-Arroyo and
3 another named defendant, aiding and abetting each other
4 knowingly possessed one Glock pistol that had been modified
5 to shoot automatically more than one shot without manual
6 reloading a single function of the trigger. That's a
7 summary, and my question was, is this one of the counts to
8 which you are pleading guilty?

9 THE DEFENDANT: It says that the gun was shot?

10 THE MAGISTRATE: No, no they did -- the Count is
11 not alleging that you fired the Glock pistol. That is not
12 being charged. What is being alleged is that the Glock
13 pistol had been modified to be able to shoot automatically
14 but it is not alleging that you fired the firearm, the Glock
15 pistol. Are you clear, do you understand that?

16 THE DEFENDANT: Yes, yes Your Honor. Excuse me.

17 THE MAGISTRATE: That's fine, you -- it's important
18 to me that you understand because if you don't understand
19 something, that's fine. I'll be glad to try to rephrase any
20 way I can to try to help you understand. So, my question to
21 you is, is this another count to which you are pleading
22 guilty?

23 THE DEFENDANT: Yes, Your Honor.

24 THE MAGISTRATE: All right, so going back to where
25 we were, if you are convicted of these two offenses as to

1 each count, you will be exposed to the following penalties:
2 A term of imprisonment of no more than 10 years, a fine not
3 greater than \$250,000 and a term of supervised release of no
4 more than 3 years, in addition to any term of imprisonment.
5 Do you understand that?

6 THE DEFENDANT: Yes, Your Honor.

7 THE MAGISTRATE: Do you understand that as part of
8 the sentence, the Court must impose a special monetary
9 assessment of \$100 per Count of conviction, so in this
10 particular case, there are two Counts so it will be an
11 assessment of \$200. Do you understand that?

12 THE DEFENDANT: Yes, Your Honor.

13 THE MAGISTRATE: Counsel Aguayo, have you had the
14 opportunity to thoroughly discuss with the defendant the
15 United States sentencing guidelines, and the guidelines
16 calculations and how they would apply to him in this
17 particular case?

18 MR. AGUAYO: I have, Your Honor.

19 THE MAGISTRATE: Mr. Vazquez, were you able to
20 understand your lawyer's explanations as to the United
21 States sentencing guidelines and the guidelines calculations
22 and how they would apply to you in this case?

23 THE DEFENDANT: Yes, Your Honor.

24 THE MAGISTRATE: Do you understand that the United
25 States sentencing guidelines are advisory, in other words,

1 they are not binding or mandatory on the Court?

2 THE DEFENDANT: Yes, Your Honor.

3 THE MAGISTRATE: Do you understand that even if the
4 Court imposes a sentence that is more severe than what the
5 advisory guidelines recommend or suggest, you would not be
6 able to withdraw your guilty plea for that reason alone?

7 THE DEFENDANT: Yes, Your Honor.

8 THE MAGISTRATE: Do you understand that there is no
9 stipulation as to your criminal history category and that at
10 the time of the sentencing hearing the higher criminal
11 history category is the more severe the punishment
12 recommended by the guidelines is?

13 THE DEFENDANT: Yes, Your Honor.

14 THE MAGISTRATE: Has anybody forced you, threatened
15 you or coerced you to enter a guilty plea in this case?

16 THE DEFENDANT: No, Your Honor.

17 THE MAGISTRATE: Now, in just a few moments I will
18 be asking the prosecutor to provide a proffer of the
19 evidence. That is a summary of the evidence that the
20 Government claims that it would have presented at trial had
21 you exercised your right to a jury trial in order for them
22 to prove beyond reasonable doubt that you are guilty of
23 these offenses.

24 Please, Mr. Vazquez, listen carefully to what the
25 prosecutor is going to say. Counsel Aguayo, as I said

1 earlier when the AUSA was present here at side bar with both
2 you and the AUSA? Once the prosecutor is done giving his
3 proffer, I'll ask you whether the defendant is in a position
4 to admit the Government's proffer as true, or if instead he
5 would rather have me go through the elements of the offenses
6 to see if he's willing to admit as to each and every one of
7 the elements of the offenses charged.

8 I don't mind if after you hear the prosecutor's proffer
9 you wish to confer for a moment with your client, if you
10 need to have that moment, that's fine too.

11 MR. AGUAYO: We are ready, Your Honor.

12 THE MAGISTRATE: Very well, AUSA Henek, you may
13 proceed right now with the Government's proffer of the
14 evidence.

15 MR. HENEK: Thank you, Your Honor. The
16 Government's statement of facts is as follows: On February
17 1, 2017, an FBI Task Force Officer was traveling East on
18 Street 28 towards Guaynabo from Bayamon. There was a white
19 Ford Mustang traveling one or two vehicles in front of the
20 Task Force Officer. The Task Force Officer then heard
21 gunfire and observed the driver of the Mustang discharging a
22 firearm towards a white Mitsubishi Lancer, which was
23 directly in front of the Mustang. After the incident had
24 been reported, two Police of Puerto Rico Officers saw the
25 white Ford Mustang pull over on the side of the road in

1 Barrio Obrero. POPR witnessed two individuals get out of
2 the Mustang smoking cigarettes.

3 POPR approached the driver of the vehicle, later
4 identified as the defendant, Anthony Vazquez-Arroyo, and
5 asked him to put his hands on the rear of the vehicle. Mr.
6 Vazquez-Arroyo stated that he had two magazines in his
7 pocket, one of which was empty and the other of which was
8 loaded.

9 From the defendant, Mr. Vazquez-Arroyo's person, POPR
10 recovered a 22 round magazine containing 7 rounds, as well
11 as an empty 22 round magazine. Mr. Vazquez-Arroyo also
12 stated that there was a firearm inside the vehicle. At that
13 point Mr. Vazquez-Arroyo was advised of his rights.

14 Mr. Vazquez-Arroyo then stated that the firearm was
15 located on the rear passenger seat and that it belonged to
16 him. Inventory was taken of the Ford Mustang upon arrival
17 at an FBI secured location.

18 The FBI recovered a black and gray fanny pack
19 containing a Glock 23 pistol with serial number BAAH345, two
20 22 round magazines and one loose round. One magazine
21 contained 22 rounds, the other contained 20 rounds. The
22 Glock 23 pistol had been configured to fire in fully
23 automatic mode.

24 A criminal record search reveals that Mr. Vazquez-
25 Arroyo is a felon who had been convicted of a crime

1 punishable by imprisonment for a term exceeding one year.
2 Specifically, Mr. Vazquez-Arroyo was convicted of a
3 carjacking in 2011 and sentenced to 63 months in prison and
4 60 months of supervised release in the District of Puerto
5 Rico case number 11-CR-325 by the Honorable Francisco
6 Besosa.

7 At trial the United States would have proven beyond a
8 reasonable doubt that the defendant is guilty as charged in
9 Counts 1 and 2 of the indictment. Had this case proceeded
10 to trial, the U.S. would have proven beyond a reasonable
11 doubt that on or about February 1, 2017 in the District of
12 Puerto Rico and within the jurisdiction of this Court, the
13 defendant, Mr. Anthony Vazquez-Arroyo, having been convicted
14 of a crime punishable by a term of imprisonment exceeding
15 one year, aiding and abetting another named defendant, did
16 knowingly possess and in affecting Interstate Commerce a
17 firearm; that is one Glock pistol model 23 bearing serial
18 number BAAH345, as well as four 22 round magazines.

19 Had this case proceeded to trial, the U.S. also would
20 have proven beyond a reasonable doubt, that the defendant
21 Anthony Vazquez-Arroyo, aiding and abetting another named
22 defendant, did knowingly possess a machine gun; that is a
23 Glock pistol model 23 bearing serial number BAAH345 that had
24 been modified to shoot automatically more than one shot
25 without manual reloading by a single function of the

1 trigger, as well as four 22 round magazines.

2 At trial the Government would have proven Counts 1 and
3 2 beyond reasonable doubt with physical and documentary
4 evidence, including but not limited to testimony of
5 intervening Police Officers and FBI Agents, photographs,
6 documents, and other physical evidence. Discovery was
7 timely made available to defendant for review.

8 THE MAGISTRATE: Counsel Aguayo, would you rather
9 have me go through the elements of the offenses as to each
10 count, or is the defendant in a position to admit the
11 Government's proffer as true?

12 MR. AGUAYO: My client has informed me, Your Honor,
13 that he agrees with all the elements of the offense, Your
14 Honor.

15 THE MAGISTRATE: Okay, so let me address the
16 defendant then. Excuse me. Mr. Vazquez, do you admit that
17 on February the 1st of the year 2017 in Puerto Rico, you
18 Anthony Vazquez-Arroyo and another person possessed one
19 Glock pistol model 23 bearing serial number BAAH345?

20 THE DEFENDANT: Yes.

21 THE MAGISTRATE: Do you admit that that firearm;
22 that is the Glock pistol that I just mentioned to you a few
23 moments ago, had been modified to shoot automatically more
24 than one shot without manual reloading by a single function
25 of the trigger?

1 THE DEFENDANT: Yes.

2 THE MAGISTRATE: Do you admit that at the time of
3 the offense; that is as back in February the 1st of the year
4 2017, you knew that that Glock pistol had been modified to
5 shoot automatically?

6 THE DEFENDANT: Yes.

7 THE MAGISTRATE: Do you admit that as of February
8 the 1st of the year 2017, you had been convicted of a crime
9 punishable by imprisonment for a term exceeding one year?

10 THE DEFENDANT: Yes.

11 THE MAGISTRATE: And do you admit that, and I am
12 asking this question for purposes of Count 1, to address the
13 Interstate Commerce nexus. Do you admit that that Glock
14 pistol that you were in possession of on February the 1st,
15 2017, had been shipped or transported in Interstate or
16 foreign commerce?

17 THE DEFENDANT: Yes.

18 THE MAGISTRATE: Finally, do you admit that you
19 committed these offenses knowingly; that is not by accident
20 or by mistake but rather fully aware of what you were doing?

21 THE DEFENDANT: No.

22 THE MAGISTRATE: Well, here is the thing, Mr.
23 Vazquez --

24 MR. AGUAYO: I don't know if he understood, Your
25 Honor.

1 THE MAGISTRATE: Okay, I will let you confer with
2 your client, but let me at least just say this before you
3 confer with your client. Mr. Vazquez, the reason why I am
4 asking this question is because both Count 1 and Count 2
5 alleged that you possessed; that you committed these
6 offenses knowingly. Both of them say knowingly possessed,
7 did knowingly possess.

8 So, I am asking you whether you admit that you
9 committed these offenses knowingly. That's the reason why.
10 Now, I am not going to put any pressure on you. I will let
11 you confer with your lawyer first. If you tell me that you
12 did not commit these offenses knowingly, then I will respect
13 your decision but I can not then recommend that your guilty
14 plea be accepted because that is one of the elements of the
15 offense's charged.

16 So, take a moment. I will respect whatever decision
17 that you make. What I do need to have is a truthful answer.
18 That I need but I will respect whatever decision you make
19 about this. So, it is your -- so confer with your lawyer
20 and then after you have conferred with your lawyer, I will
21 repeat the question to you and if you don't understand my
22 question, let me know and I am going to try to see how I can
23 phrase it differently. All right?

24 THE DEFENDANT: Yes.

25 THE MAGISTRATE: Go ahead.

1 MR. AGUAYO: Would you please ask him again, Your
2 Honor?

3 THE MAGISTRATE: All right, so let the record
4 reflect that the defendant has had an opportunity to confer
5 with his lawyer. Mr. Vazquez, as to both of these Counts,
6 do you admit that you committed these offenses knowingly, in
7 other words, not by accident or by mistake but rather fully
8 aware of what you were doing?

9 THE DEFENDANT: Yes.

10 THE MAGISTRATE: I find that there is a basis in
11 fact as to each and every one of the elements of the
12 offenses charged. Now, Mr. Vazquez, how do you wish to plea
13 to Counts 1 and 2 of the indictment, guilty or not guilty?

14 THE DEFENDANT: Guilty.

15 THE MAGISTRATE: Is your decision to enter a guilty
16 plea a voluntary decision?

17 THE DEFENDANT: Yes.

18 THE MAGISTRATE: I find that the defendant is
19 fully aware of the consequence of his guilty plea and the
20 maximum penalties applicable to Count's 1 and 2 of the
21 indictment. I also find that his plea has been
22 intelligently and knowingly made. I find that there is a
23 basis in fact as to every element of the offenses charged
24 and I find the defendant's plea has been voluntarily made.

25 Therefore, I recommend that Mr. Vazquez' guilty plea to

1 Counts 1 and 2 of the indictment be accepted by the Court.

2 Mr. Vazquez, I urge you, your attorney and the
3 prosecutor, to assist the Probation Office in the
4 preparation of the Pre-sentence Report. The sentencing
5 hearing shall be held before Judge Dominguez on the 4th of
6 August of this year, at 10:00 a.m.

7 Are there any other matters that the parties wish to
8 bring to the attention of the Court?

9 MR. HENEK: Nothing from the Government, Your
10 Honor.

11 MR. AGUAYO: Nothing from the defense, Your Honor.

12 THE MAGISTRATE: You may withdraw.

13 MR. AGUAYO: Thank you, sir. I am sorry August 4th
14 at 10:00 a.m., correct?

15 THE MAGISTRATE: Correct.

16 MR. AGUAYO: Thank you, sir.

17 (The hearing adjourned at 10:33 a.m)

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1 U.S. DISTRICT COURT)
2 DISTRICT OF PUERTO RICO)
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4 I certify that this transcript consisting of 27 pages
5 is a true and accurate transcription to the best of my
6 ability of the proceedings in this case before the Honorable
7 U.S. Magistrate Judge, Marcos E. Lopez, on April 3, 2017.
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11 S/Boabdil Vazquetelles
12 Court Reporter
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